

Westport Insurance Corporation v Gordian Runoff Ltd [2011] HCA 37

FACTS

The case arose out of a claim in arbitration for indemnity by Gordian in respect of certain policies of reinsurance and whether s18B of the Insurance Act applied to support claims under 7 year not 3-year runoff policies.

The arbitrators had decided in favour of Gordian, although they had not allowed all claims to be indemnified. The primary judge had upheld the appeal of the reinsurers and set aside the award of the arbitrators on the basis that s18B did not apply to save Gordian claims.

The Court of Appeal had set aside the primary judge's decision and refused leave to appeal to the insurers on the basis that the arbitrator's reasons were inadequate.

FINDING

The majority High Court judgment found the reasons were adequate as s18B did not apply and the arbitrator had explained his approach. The decision of the primary judge to set aside the award was reinstated.

QUOTE

The majority judgment held:

"provision of reasons will depend on the nature of the dispute and particular circumstances of the case" and that "if a dispute turns on a single short issue of fact, and it is apparent that the arbitrator has been chosen for his or her expertise in the trade or calling with which the dispute is concerned, a court might well not expect anything more than rudimentary identification of the issues, evidence and reasoning from the evidence to the facts and from the facts to the conclusion" but more complex disputes would require more elaborate reasons but not to the standard required of a Court."

IMPACT

The reasons of arbitrators are important to any party in an arbitration, particularly when a party is unsatisfied with the quality of the reasons given. While the reasons may be less elaborate in simple cases, the standard set by the High Court are still high.